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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.9796 of 2021 (O&M)

Date of decision: 05.03.2021

Akashdeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.48 dated 09.05.2019, for offence punishable under Sections 363, 366-A of the Indian Penal Code, 1860 (in short 'IPC') (Section 376 IPC added later) and 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Badhni Kalan, District Moga.

Counsel for the petitioner has submitted that the FIR was registered on the statement of Sukhwinder Singh with the allegations that his daughter/the victim (name not disclosed) is aged about 17 years and had studied upto 9th class and was doing the household work at that time. On 07.05.2019, when the complainant has gone out of his house for his routine work and his wife had also gone for some labour work, they found that their daughter i.e. the victim was not present at the house when they returned back and they prayed that some legal action

be taken as he has doubt that the petitioner has enticed away his daughter. It is further submitted that at the time when the girl was recovered, her statement under Section 164 Cr.P.C., was recorded in which she claimed her age to be 18 years and further stated that she is living with the petitioner for the last 05 months and solemnized marriage in a Temple. She was pregnant and want to have a child but her parents are forcing her to abort the pregnancy though, she wants to stay with the petitioner.

After recording of the statement on 23.08.2019, the victim was examined as PW1 by the trial Court and in her statement, she has again reiterated the version that on 07.05.2019, the petitioner has taken her to Durgiana Mandir at Amritsar where they performed the marriage.

In the cross-examination, she stated that she had performed the sexual relationship with the petitioner only after the marriage and not before that and she became pregnant. She admitted that she had made the statement under Section 164 Cr.P.C. as PW1/A.

Counsel for the petitioner has further submitted that the petitioner is in custody for the last more than 01 year and 06 months and the case, before the trial Court, is still at the stage of recording the prosecution evidence and the victim has not supported the prosecution version as she has stated that she has performed the marriage with the petitioner and the petitioner had sexual relationship with her after performing the marriage and she even became pregnant.

Counsel for the State has not disputed the factual position, however, it is submitted that the girl was aged about 17 years when she allegedly performed marriage with the petitioner.

After hearing the counsel for the parties, without commenting anything on merits of the case and going through the contents of the FIR as well as the statement of the victim recorded under Section 164 Cr.P.C., considering the fact that the petitioner is in custody for the last 01 year 06 months and 09 days; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

05.03.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No